

EXHIBIT A

UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

Case No. 08-12229 (MFW)

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In the Matter of:

WASHINGTON MUTUAL, INC., et al.,

Debtors.

- - - - -x

United States Bankruptcy Court

824 North Market Street

Wilmington, Delaware

May 5, 2010

10:30 AM

B E F O R E:

HON. MARY F. WALRATH

U.S. BANKRUPTCY JUDGE

ECR OPERATOR: BRANDON MCCARTHY

1 the other day. And it could certainly lead to strategic
2 filings of motions for appointment of trustees just to defeat a
3 motion for appointment of an examiner. So that is of no moment
4 to my ruling on this motion.

5 As I have recently ruled orally, so you can't really
6 rely on it, but I will follow myself. I do believe that
7 1104(c)(2) gives the Court some discretion, even if the debt
8 level is reached, and the discretion is that the Court has the
9 discretion to determine what appropriate investigation of the
10 debtor should occur and that, if the Court determines that
11 there's no appropriate investigation that needs to be
12 conducted, the Court has the discretion to deny the appointment
13 of an examiner.

14 The Courts have looked at various factors in
15 determining whether an appropriate investigation is warranted.
16 They include whether that investigation, that same
17 investigation, has already been conducted by other parties.
18 They have looked at whether the appointment of an examiner will
19 increase costs and cause a delay with no corresponding benefit.
20 Of course I've looked at the timing of the motion. I've looked
21 at whether the motion is a litigation tactic, which includes
22 the consideration of the timing, not just how soon it is in a
23 case but whether it is timed such as to evidence a litigation
24 tactic.

25 I think in this case it's a very close call. I don't